

RESTRICTIVE COVENANTS

DECLARATION OF PROTECTIVE COVENANTS, AGREEMENTS, RESTRICTIONS AND CONDITIONS AFFECTING THE REAL PROPERTY INCLUDING RIGHTS OF REPURCHASE

The undersigned, TIM GIBBONS, being the Owner of that certain real property in Cache County, State of Utah, more particularly described on Exhibit A attached hereto and hereby incorporated herein, does hereby make this Declaration of Protective Covenants, Agreements, Restrictions and conditions as follows:

I. GENERAL TERMS

1. MUTUAL AND RECIPROCAL BENEFITS, ETC.

All of said restrictions, conditions, covenants and agreements shall be made for the direct and mutual reciprocal benefit of each and every Lot created on above described property and shall be intended to create mutual and equitable servitude upon said Lots of each other Lot created on the aforesaid property, and to create reciprocal rights and obligations between the respective Owners of all of the Lots so created and to create a privity of contract and estate between the grantees of said Lots, their heirs, successors and assigns, and operate as covenants running with the land for the benefit of all other Lots in said tract.

2. ACCEPTANCE OF RESTRICTIONS.

All purchasers of Lots, by acceptance of contracts or deeds for any Lot or Lots shown thereon, or any portion thereof shall be conclusively deemed to have consented and agreed to all restrictions, conditions, covenants, and arrangements set forth herein, and agree to follow these covenants fully.

3. TERMS OF RESTRICTIONS.

Each and all of said restrictions, conditions, covenants and agreements shall continue in full force and effect and be binding until the last day of January 2010, upon which date the same shall be automatically continued for successive periods of ten (10) years each, unless it is agreed by the vote of the then record members of a majority of the property to terminate and do away with same; provided, however, that any time after January 1, 2010 these restrictions, conditions, covenants and agreements may be altered or modified by the

vote of the then record Owners of a majority of the property. In voting each Lot, the Owner of record shall be entitled to one vote, and the action resulting from such vote is to be evidenced by a written instrument signed and acknowledged by such Owners and recorded in the County Recorder's of Cache County, Utah.

4. EASEMENTS.

Easements and Rights of Way shall be reserved to the undersigned, successors and assigns, in and over said real property, for the erection, construction and maintenance and operation therein or thereon of drainage pipes or conduits and pipes, conduits, poles, wires and other means of conveying to and from said Lots, gas, electricity, power, water, telephone and telegraph services, and sewage as are shown on said plat map and the undersigned, its successors and assigns, shall have the right to reserve any further necessary easements in contracts and deed, to any or all of the Lots shown on said map. No structure of any kind shall be erected over any of such easements, except upon written permission of the undersigned, their successors or assigns.

5. RE-SUBDIVISION OF SITE.

None of said Lots may be re-subdivided except that the undersigned its successors or assigns, may divide any of said Lots so as to increase the size of adjoining Lots; or where one or more of said Lots is, in the opinion of the undersigned, its successors and assigns, of any such size and character that it may be divided into two or more Lots which will each be similar to the other Lots in said tract, and adequate in size and character to permit development similar to that on each other Lots, then such a Lot or Lots may be divided by the undersigned, its successors or assigns.

II. RESTRICTIONS ON IMPROVEMENTS

1. INTENT OF RESTRICTIONS ON IMPROVEMENTS.

It is the intent of these covenants to restrict the design, materials used, and the landscaping of improvements only to the extent necessary to insure quality in external appearance and maintain property values on a long term basis.

2. ARCHITECTURAL REVIEW COMMITTEE.

The undersigned hereby appoints an Architectural Review Committee, which shall initially consist of TIM GIBBONS, MARK REEDER and LORI REEDER. The functions of the Committee will be to review and approve improvement plans of Owners, consistent with the intent of these covenants. No structures, residences, outbuildings, tennis courts, swimming pools, walls, fences or other improvements shall be constructed upon any

Lot without following the Architectural Review Committee review process. This Committee will appoint the undersigned until such time as residences are constructed on seventy percent (70%) of the Lots. There will be ninety one Lots on the Exhibit A property. At such time, the named members, their successors and assigns and their assigned agents will be released from further involvement with the Architectural Committee. The Lot Owners, at such time may nominate members to serve as a new committee by majority vote. In voting, each Lot Owner of record shall be entitled to one vote, and the action resulting from such vote is to be evidenced by a written instrument signed and acknowledged by such Lot Owners and recorded in the County Recorder's Office of Cache County, Utah. The new committee shall consist of Lot Owners or their agents as directed by majority vote of the Lot Owners.

The purpose of the Architectural Committee is to determine that the structures are in conformity and harmony in external design with the existing structures and development of the area, and as to location of buildings with respect to topography and finish ground elevations. For this reason the Architectural Committee is given the general power to review building designs generally and may specifically disapprove of the design because of a lack of general harmony with the development of the area. In the event such disapproval occurs it must be in writing and specifically state the basis of the disagreement.

3. REVIEW PROCESS.

a. Preliminary Submission: This submission to the Committee is not required but is recommended. This submission should include a rough layout drawn to scale, showing proposed improvements, including but not limited to building design and location, driveways, outbuildings, and patios. The architecture at this stage could be conceptual, showing elevations and floor plans with basic dimensions. Information as to colors and materials to be used could also be included. If the proposed improvements are not satisfactory to the Committee, a meeting with the Owner and/or his designer will be called to discuss possible changes for the final submission.

b. Final Submission: This submission is required and must be a detailed description of proposed improvements. This site plan should be drawn to a scale of at least 1"-20', should show proposed grading at no more than two foot intervals with spot elevations for clarifications when necessary, should give detailed and accurate information concerning colors and materials to be used. If no action is taken by the Architectural Review Committee within twenty-five {25} days of the date of the final submission, the Owners will have the right to proceed with construction as proposed, providing they notify the committee of their intent in writing.

c. Committee's Right to Stop Construction: The Committee reserves the right to stop construction on any residence which does not conform to approved drawing bearing its approval.

4. COMPLETION OF RESIDENCE.

Completion of Residence: Erection of a residence must begin within three years of the purchase of the said Lot and shall be completed within a one year period from beginning date of construction. Once the construction of any residence or the structure other than fencing is begun, work thereon must progress diligently and must be completed within 12 months. If Completion does not occur within two (2) years as herein provided then the undersigned is granted the Rights of Repurchase stated hereinafter.

III. SPECIFIC RESTRICTIONS.

1. TYPE OF STRUCTURES.

No building other than one single family dwellings and appropriate out buildings shall be erected on any of said Lots. Any structures constructed on any of said Lots shall be used only as a single family dwelling or appurtenant out buildings. The undersigned can allow churches and schools.

2. ARCHITECTURAL CONTROLS.

- a. Private Residences: Said Lots shall be used for private residences only.
- b. Roofs: All roofing shall be split cedar shakes, wood shingles, asphalt shingles, or tile roofs. Tin roofs or other metal roofs will only be approved with special written permission of the Architectural Control Committee. The pitch on roofs shall meet or exceed 4:12 on two level homes except with special written permission. The pitch on roofs with one level shall meet or exceed 6:12 except with special written permission.
- c. Siding: The exterior shall be constructed of a durable material aesthetically compatible with the building style. No wood siding is allowed.
- d. Residence Size: The main floor or the upper two levels of a split level home shall have a minimum of 1,000 square feet, not including the garage and basement.
- e. Garages: Each residence shall be constructed with an attached garage with a minimum of 400 square feet
- f. Fencing: Location of any fences must be submitted to the Architectural Review Committee as described above before construction may begin. Once fence construction has begun, the fence must be fully completed within sixty days.
- g. Landscaping: All landscaping must be completed within one hundred and eighty (180) days after construction of the residence is completed, weather permitting. If completion is delayed by weather, then landscaping must be completed as soon as possible.
- h. Signs: No sign shall be displayed on any of said Lots except as follows;

The name and professions of any professional man may be displayed at any dwelling house upon a sign not exceeding 200 square inches in size. The sign shall not be illuminated. There may also be displayed a sign of the common size used by real estate professionals advertising the fact that said parcel or said dwelling house is for sale or to let or to lease, such signs not exceeding 400 square inches in size..

i. Standards: The Architectural Committee reserves the right to disapprove of designs, depictions, colors, statutes, landscaping elements, etc. which are unusual or which may detract from the family neighborhood image of the area.

j. Car Repairs: No car under repair or needing repair or which would be considered junk vehicles or salvage vehicles shall be kept outside of an enclosed garage.

k. Manufactured Housing: Manufactured housing is not expressly prohibited, however, the design and appearance of this housing will generally not be acceptable.

3. MAINTENANCE OF LOT.

Buildings, outbuildings, fences, landscaping and other improvements shall be continuously maintained to preserve a well kept appearance. If the appearance of a Lot falls below reasonable levels, the Architectural Review Committee, or other committee appointed by Lot Owners as provided for below, shall so notify the Owner in writing and the Owner shall have thirty (30) days thereafter to restore the property to an acceptable level of maintenance. Should the Owner fail to do so, the Architectural Review Committee or the other committee may order the necessary work performed at the Owner's expense. No rubbish shall be stored or allowed to accumulate on Lots. Personal property of the Lot Owner in the process of being repaired shall not be left in the visible sight of neighbors for more than thirty (30) days, unless repairs occur. No excavation for stone, gravel or earth shall be made on Lots, unless such excavation is made in connection with the erection of a building or structure thereon.

The Owners of all Lots shall immediately upon the purchase of any Lot, maintain and control all weeds on the said Lot. If in the opinion of the Committee, a weed control program is needed, then the Committee shall have all necessary weed control work completed. The Committee shall thereupon bill the Owners of the Lot for the costs of having the weed control work done on their Lot and the Owner shall pay to the Committee at the address designated on the statement, the sum so billed, within thirty days from the date of said billing.

IV. REPURCHASE RIGHTS.

In the event a purchaser of a Lot deems it necessary to resell the Lot without starting a residence or completing a residence, or fails to start or complete a

residence timely, then the undersigned, successors or assigns reserves shall have Option to Repurchase and a Right of First Refusal as hereinafter described.

1. OPTION TO REPURCHASE.

A Right of First Option to buy the said Lot from said purchaser at the original purchase price plus interest thereon at seven percent (7%) from the date of purchase. Before reselling a Lot, the Owner of a Lot shall give the undersigned fifteen days notice in which to exercise this Option. If the undersigned notify the Owner within that fifteen day period that they desire to exercise the Option then they shall have another thirty days in which to tender the funds. Upon receipt of such funds the Owner shall deliver a Warranty Deed and Title Insurance proving the property is free and clear of any encumbrances.

2. RIGHT OF FIRST REFUSAL.

In the event the undersigned does not exercise said Option, the undersigned is in addition granted a Right of First Refusal to purchase the Lot upon resale before the same can be sold to any party. The undersigned shall be granted a ten day period to exercise this Right of First Refusal prior to the completion of any transaction.

V. VIOLATION, ACCEPTANCE, AND INVALIDITY OF RESTRICTIONS.

Violations of any of the restrictions, conditions, covenants, or agreements herein contained, shall give the undersigned, its successors and assigns, the right to enter upon the property where said violation or breach exists, and to summarily abate and remove at the expense of the Owner, any erection, thing, or condition that may be or exist thereon contrary to the provisions hereof, without being deemed guilty of trespass. The result of every action or omission whereby any restrictions, condition, covenant, or agreement is violated, in whole or in part is hereby declared to be and constituted an nuisance and every remedy allowed by law against such result. Such a remedy shall be deemed cumulative and not exclusive. Any party deemed or found to be in violation of these Restrictive Covenants shall pay the cost of enforcing the same including all court costs and attorneys fees so incurred.

It is expressly agreed that in the event any covenant or condition or restriction hereinabove contained, or any portion thereof, is held invalid or void, such invalidity or voidness shall in no way affect any valid covenant, condition or restriction.

DATED May 22, 1996.


TIM GIBBONS

ACKNOWLEDGEMENT

State of Utah)
 : ss..
County of Cache)

On May 22, 1996, personally appeared before me TIM GIBBONS, who being by me duly sworn, did acknowledge to me that he executed this document.


Notary Public



EXHIBIT "A"

A PART OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 11 NORTH,
RANGE 1 EAST OF THE SALT LAKE BASE AND MERIDIAN,
DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 21, TOWNSHIP 11
NORTH, RANGE 1 EAST OF THE SALT LAKE BASE AND MERIDIAN, SAID
NORTHWEST CORNER BEING LOCATED AT THE INTERSECTION OF THE CENTER
LINE OF 800 WEST STREET AND A LINE 49.50 FEET NORTH OF AND PARALLEL
TO THE SOUTH RIGHT OF WAY LINE OF 2600 SOUTH STREET IN NIBLEY CITY,
UTAH AS ESTABLISHED BY SURVEY DONE BY RICHARD K. NIELSEN (LS #4264)
FOR THE ELKHORN RANCH SUBDIVISION, UNIT 1, AND RUNNING THENCE SOUTH
00*27'03" EAST ALONG THE CENTER LINE OF 800 WEST STREET 1,331.59 FEET;
THENCE LEAVING SAID CENTERLINE NORTH 89*32'57" EAST 1155.34 FEET TO THE
POINT OF BEGINNING, SAID POINT OF BEGINNING BEING LOCATED IN THE EAST
RIGHT OF WAY LINE OF THE OREGON SHORT LINE RAILROAD RIGHT OF WAY
AND IS ALSO THE NORTHWEST CORNER OF THE ELKHORN ESTATES PHASE 2
SUBDIVISION, AND RUNNING THENCE NORTH 89*43'34" EAST 1499.87 FEET;
THENCE SOUTH 00*28'39" EAST 1344.69 FEET; THENCE NORTH 89*48'56" WEST
797.59 FEET; THENCE SOUTH 48*23'35" EAST 16.75 FEET; THENCE SOUTH 41*07'03"
EAST 164.88 FEET; THENCE SOUTH 34*59'09" EAST 126.29 FEET; THENCE SOUTH
43*50'26" EAST 131.28 FEET; THENCE NORTH 67*52'07" EAST 7.10 FEET; THENCE
SOUTH 00*15'28" EAST 871.13 FEET TO THE NORTH RIGHT OF WAY LINE OF 3200
SOUTH STREET; THENCE NORTH 89*04'44" WEST ALONG SAID RIGHT OF WAY
LINE 176.78 FEET; THENCE LEAVING SAID NORTH RIGHT OF WAY LINE NORTH
00*16'26" WEST 152.00 FEET; THENCE NORTH 89*04'44" WEST 202.78 FEET; THENCE
NORTH 02*40'54" EAST 189.45 FEET; THENCE SOUTH 90*00'00" EAST 165.04 FEET;
THENCE NORTH 10*57'59" WEST 50.93 FEET; THENCE NORTH 90*00'00" WEST 264.37
FEET; THENCE NORTH 00*00'00" WEST 384.28 FEET; THENCE SOUTH 89*33'33" WEST
170.31 FEET; THENCE NORTH 50*00'00" WEST 205.00 FEET; THENCE NORTH
42*15'01" WEST 318.18 FEET TO THE EAST RIGHT OF WAY LINE OF THE OREGON
SHORT LINE RAILROAD; THENCE NORTH ALONG SAID RAILROAD RIGHT OF WAY
LINE THE FOLLOWING FIVE COURSES, NORTH 01*01'14" EAST 109.63 FEET;
THENCE NORTH 88*58'46" WEST 8.00 FEET; THENCE NORTH 01*01'14" EAST 329.93
FEET; THENCE NORTH 88*58'46" WEST 4.50 FEET; THENCE NORTH 01*01'14" EAST
909.62 FEET TO THE POINT OF BEGINNING.